

**Agriculture Sector
Competition Policy in India: A Study**

Prepared by

**Prof. K. Elumalai
Director, School of Law
Indira Gandhi National Open University,
New Delhi**

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Chapter-I: Introduction and objectives of the study: Agriculture Sector

I - Introduction

1.1 The term ‘Agriculture’ as per Webster’s New International Dictionary refer to “the art or science of cultivating the ground, including rearing and management of lives took, husbandary farming and also including in its broad since farming, horticulture, forestry, cheese making etc. The term ‘**agriculture**’ is defined broadly and differently under various laws¹, perhaps, based on the purposed and objective of respective Acts¹. **Agricultural Operations** includes animal husbandry, dairy farming, pisciculture and poultry farming². Similarly **Agricultural Produce** includes all produce of the agriculture or horticulture and all articles of food or drink wholly or party manufactured from any such produce and fleeces and the skins of animals³. The term Agriculture produce is also defined broadly and differently under various Acts⁴.

1.2 The term Agriculture purpose’ refers to tilling and cultivation for purposes of raising crops⁵. A person making his living by agriculture is called an **agriculturist**⁶ The term ‘**competition**’ is defined as “striving against each other for settling something desired or doing something in the best manner possible, a trial of ability⁷

1.3 From the above, it is clear and evident that the components and coverage of the (Indian) agriculture is not only vide and complex but also difficult to analyse and understand the contours of this sector.

II- Agriculture: Global Concern Perspective:

¹ (i) Urban land (ceiling and regulation Act, 1976 (33 of 1976), S.2 (o) (ii) explanation (A), (ii) National Bank for Agriculture and Rural Development, 1981 (61 of 1981), S.2 (a),
(iii) Central Agricultural University Act, 1992 (40 of 1992, S.2 (c)

² The State Agricultural Credit Corporation Act (60 of 1968), 1968, S.2 (b)

³ The Agricultural produce (grading & Marketing) Act (1 of 1937), 1937, S.2 (a)

⁴ To name few: (i) Warehousing Corporation Act, (58 of 1962), S.2 (a); (ii) National Co-operative Development Corporation Act,1962 (26 of 1982), S.2 (a); (iii) The APMC Acts passed by various states eg. M.P Krishi Upaj Mandi Adhinigam, 1972, S.2 (1) (a)

⁵ P. Ramanatha Aiyar, Concise Law Dictionary, third Edition, reprint 2009

⁶ The civil Procedure code, 1908 (5 of 1908) §.60 (1) (b).

⁷ Indian Trusts Act (2 of 1882 §.15 i ll (d)

Millennium Development Goals:

1.4 The Millennium Development Goals (MDG) for agriculture sector stipulated, inter-alia, two major targets i.e. the proportion of people whose income is less than one dollar (i.e around Indian Rupees 50) a day and the proportion of people who suffer from hunger, needs to be reduced by half between 1990 and 2015⁸. The said two MDGs very relevant and importance for India keeping in view nearly 60 percent of the population depend on agriculture for their livelihood.

1.5 The World Bank report on Agriculture and achieving the MDGs⁹ noted that “Current trade barriers and subsidies are high for Agriculture. Successful WTO agricultural Trade negotiation that lower protection and subsidies could boost progress toward MDGs”.

1.6 There is growing agricultural trade among developing countries, but these countries also retain substantial trade barriers on agricultural products. Developing country governments (and civil society organizations) that are largely united in seeking lower agricultural subsidies and protection in the developed countries have been divided concerning what to do about the agricultural trade barriers in developing countries¹⁰.

1.7 The said report urged that the Government agencies in developing countries need urgently to revisit the legal, regulatory, political, and institutional framework in the agriculture, research, extension and industrial sectors¹¹.

1.8 The World Food Summit , 2008 in its Declaration¹² affirmed the need to minimize the use of restrictive measures that could increase volatility of international prices with a view to ensure that food, agricultural trade and overall trade policies are conducive to fostering food security for all.

⁸ Millennium Development Goals for Agriculture

⁹ Agriculture and achieving the Millennium Development Goals, Chapter 4 page 49 Agriculture and Rural Development report, the world bank Washington D.C. USA

¹⁰ Ibid p52

¹¹ Ibid p 67

¹² World Summit, 2008 (final) declaration of the High level conference on World Food Security. The challenges of climate change and bio energy

1.9 The Declaration of the said Summit as a Medium and Long Term Measure, further encouraged¹³ the international community to continue its efforts in liberalizing international trade in agriculture by reducing trade barriers and market distorting policies. Addressing these measures will give farmers, particularly in developing countries, new opportunities to sell their products on world markets and support their efforts to increase productivity and production, observed the said summit.

1.10 The world Development Report 2008 with the primary focus on “Agriculture for Development¹⁴ discussed inter-alia the crucial role of governance in supporting the main elements of agriculture –for-development agendas¹⁵.

1.11 As per this report, regulation has to strike an appropriate balance, among different interest groups, avoiding both overregulation and under-regulation, especially if there are risks and uncertainties- for example, with a new technology. Regulatory agencies need reform to meet this challenge and avoid political and special interest capture.¹⁶ The reduction of barriers and transaction costs in international trade needs clear rules of the game that regulate a wide variety of public policies set at the national level, including sanitary and phytosanitary rules and grades and standards for specific products.¹⁷

1.12 The World Bank very recently advocated the linking of farmers to markets and strengthen value chains¹⁸. The World Bank aimed to provide additional support to at least 15 countries to better link farmers to markets, improve their competitiveness, and continue with global efforts to improve trade and support improved regional trade¹⁹. Better link farmers to markets through targeted investments in market places, rural roads, telecommunication (market information),

¹³ Ibid p 3

¹⁴ World Development Report, 2008 Agriculture for Development World Bank

¹⁵ Ibid

¹⁶ Ibid p 254

¹⁷ Ibid p 260

¹⁸ Implementing Agriculture for Development, World Bank Group, Agriculture Action Plan, 2010-12, July, 2009.

¹⁹ Ibid

and electrification for agribusiness and scaling up business models that better enable smallholder farmers to compete in growing higher value markets.²⁰

1.13 Last but not the least, it is globally recognised that lack of competition in the marketplace is having seriously negative social effects on agricultural producers, the most vulnerable are the poorly organized, resource poor farmers in developing nations.²¹ The establishment of informational competition policy in the form of multi-lateral rules on restrictive business practices is considered one of the approach to address the imbalance in trade relationship²².

III- The Indian Agriculture Sector

1.14 The Indian agriculture sector gained the attention of policy makers continuously which is evident from the policy formations introduced through Union Budgets over several decades. Maintaining this tradition, a four-pronged strategy covering (i) agricultural production, (ii) reduction in wastage of produce, (iii) credit support to farmers and (iv) a thrust to the food processing sector was introduced in the Union Budget, 2010-11.²³ The central government, after realizing the fact that the said initiatives started showing results, sifted the focus to other vital issues i.e. removal of bottlenecks for fruits and vegetables, milk, meat, poultry and fish in the union budget for the year, 2011-12.²⁴

1.15 The said Budget speech had also contained the following three important policy formulations which had direct bearing on the elements of completion in Agriculture sector:

²⁰ Ibid

²¹ International assessment of Agricultural Knowledge Science And Technology For Development, 2009, Global Report, Mdntyre Beverly etc. al. Washington D.C. USA

²² Ibid, for example, a potential model for the said approach in the French law that prohibits selling at a loss and “exclusively low process”. (Another policy option that is widely noted is the reintroduction of price bands as a means of cushioning the impact of world price instability. For example Chile’s free trade agreements with EU and Canada allowed it to keep its agricultural price band which was designed to stabilize import costs of agricultural staples (including wheat, sugar, oil) through adjustment to tariffs on such with the objective of allowing a fair rate of return to Chilean farmers even if they were competing with heavily subsidized US farmers. In contrast the US- Chile free Trade Agreement committed Chile to phase out its agricultural price band system. An international competition policy framework might also include creation of an independent UN agency to address some of the issues that UN Center for Transnational Corporations used to address).

²³ Finance Minister speech Union Budget, 2011-12

²⁴ Ibid

(i) The grant of interest subvention concession to those farmers who repay their crop loans on time is enhanced to 3 per cent in the year 2011-12 (This concession made available under this scheme is extended to these farmers who avail crop loans from Public Sector Banks, Regional Rural Banks and Cooperative Banks but not to others.²⁵

(ii) Contribution of 10,000/- crore to NABARD's short term rural credit fund for 2011-12 (from the short fall in priority sector lending by Scheduled Commercial Banks) with a view to enable NABARD to refinance the short term crop loans of the cooperative credit institutions and RRBs at concessional rates²⁶ and

(iii) There is an urgent need for the state governments to review and enforce a reformed Agricultural Produce Marketing Acts owing to the fact that the government regulated mandis sometimes prevent retailers from integrating their enterprises with the farmers²⁷.

1.16 The growth of agriculture and allied sectors continues to be a critical factor in the overall performance of the Indian Economy²⁸. The government of India is of the opinion that creation of more direct farm-to-fork supply chains in food items across the country would be crucial in incentivizing the farmer with higher producer prices and at the same time would lower the prices of the end consumer²⁹. However, the ground level realities are altogether different. For example, the economic cost of food grain's to the FCI consists of three components i.e. minimum support price as the price paid to the farmers, procurement incidentals and the cost of distribution³⁰.

1.17 The procurement incidental cost are generally incurred by the farmers out of the minimum support price received by them. The distribution cost is generally met out by the subsidy component injected by the government.

²⁵ Ibid para 63

²⁶ Ibid para 64

²⁷ Ibid para 69

²⁸ The Economic Survey, 2010-11 (Indian) Ministry of Finance, GOI, New Delhi (para 1-20, para-9)

²⁹ Ibid para 1.22, p.10

³⁰ Ibid para 8.80, p. 211

1.18 The said cost of procurement incidentals for Rice for the year 2010,11 comes to 15.51%³¹ percent which means the farmer is made to incur addition at cost of 15.51 percentage in the process of selling his produce to FCI through regulated market or otherwise. Similarly, the government has to incur additional cost i.e @ 12.46% towards distribution cost towards distribution of food grains to the final consumer³². The situation is still worse in the case of wheat wherein the cost of procurement incidental (14.57%) and distribution cost (16.12%) put together touches 30.69% of the total economic cost of wheat³³

1.19 In the opinion of the government of India “the agriculture sector is vital for the food and nutritional security of the (any) Nation. The Sector remains the principal source of livelihood for more then 58 percent of the population (India) though its contribution to the National GDP has declined to 14. 2 percent (in the year 2010-11) due to high growth experienced in industries and services sectors. Compared to (sic) other countries, India faces a greater challenge, since with only 2.3 percent share in world’s total land area; it has to ensure food security of its population which is about 17.5 percent of the world population³⁴ .

1.20 The Government of India, Department of Agriculture, in the recent past, had launched several major Flagship and Major Programmes, a few of which are listed below³⁵:

- (i) Rastitriya Krishi Vakas Yojana (RKVY)
- (ii) Extention of Green Revolution to the Eastern States.
- (iii) Identification of 60,000 Pulses and Oil Seeds villages
- (iv) Saffron Mission in J.K
- (v) National Food Security Mission
- (vi) National Horticulture Mission including for North East and Himalayan States.
- (vii) National Mission on Micro irrigation

³¹ Ibid at p. 211 calculated based on the table 8.17

³² Ibid at p. 211 calculated based on the table 8.17

³³ Ibid at p. 211 calculated based on the table 8.17

³⁴ Annual Report, 2010-11, Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India, March, 2011

³⁵ ibid

(viii) Integrated scheme of oilseeds, pulses, oil palm and maize

Other Major Initiatives;

(ix) National e-Governance Plan (NeGP-A)

(x) Terminal Market Complex Scheme

(xi) Modified National Agricultural Insurance scheme (MNAIS)

(xii) National Seeds Mission

(xiii) National Mission for sustainable Agriculture.

(xiv) Rehabilitation and Reconstruction of Potentially Viable Sick Cooperatives.

(xv) Interest subvention on loans provided by NCDC to Cooperatives

(xvi) Minimum Support Price (revision)

(xvii) Constitution (one hundred and Eleventh) Amendment bill to empower
Cooperatives.

(xviii) Amendment in Seeds Act, 1966

(xix) Introduction of Pesticides Management bill 2008

1.21 As per a recent study³⁶ India's agriculture development, traditionally, was based on protected policy environment which included controls on market, Pricing, Trade, Storage, and Quantitative restriction on Foreign trade.

1.22 The Economic Reforms introduced in India during 1990's did not include policy measures affecting agriculture sector in a big way despite policy changes in liberalising border measures controlling agriculture trade, domestic regulations continued to exist restricting private entry and investment in this sector³⁷

1.23 Both the Central and state governments are in the process of liberalising regulatory regime to promote healthy competition in agricultural markets. There were about 222 legislative measures undertaken to regulate in functioning of agricultural markets (Acharya, 2006). Several of these acts have been repealed, lifted or consolidated. Still, the existing regulations tend to suppress competition. A particular regulation may be necessary if such

³⁶ Facilitating efficient Agricultural Markets in India: An assessment of Competition and Regulation Reform Requirements

³⁷ *ibid*

regulation is required to deliver efficient outcomes, when there is market failure. However, a comprehensive review of agricultural market regulations needs to be undertaken to assess whether it has achieved its intended objectives³⁸.

1.24 For the reason specified above, the present study is undertaken with following Aim, Focus and objectives.

Objectives of the Agriculture Sector Study.

- (i) To identify broadly or refer to the laws, rules, regulations orders, schemes etc enacted by Indian Parliament or State Legislatures connected with or related to agriculture sector.
- (ii) To Identify and list provisions in different Statutes, rules, Policies and Practices which limit competition or have Potential to limit competition in Agriculture Sector.
- (iii) To critically review and analyze the relevant agriculture laws, rules and regulations and policies governing the agriculture sector with a primary objective to identify competition distorting elements contained therein.
- (iv) To provide (to the extent possible) illustrative examples of those laws, restrictive and policies which either exert or have the potential to exert anti-competitive effects, and thus influence laws/ regulations / policy etc. concerned.
- (v) To highlight or suggest a practical approach (as far as possible) to promote, protect and ensure competition (whenever it is absent or missing) in the Agriculture sector.
- (vi) To find out the justifications for the barriers to entry permitted or allowed, if any, in the agricultural laws/policy.
- (vii) To recommend changes in regulations and the implementation procedures to address the competition related issues.

1.25 Limitations of the study

³⁸ ibid

(i) the coverage of agriculture related subjects, issues laws, rules, regulations orders, scheme etc. are wide and vast, hence, unable to do justice to the assigned task due pausing of time left at the disposal of the author.

(ii) The range of subject and laws governing agriculture sector involves multiple agencies, departments, Ministers hence the coordinator and interaction for collection of data and information has become a major problem.

(iii) Agriculture basically is a state subject. Hence, it is essential to study all the relevant laws rules, regulations, orders, schemes passed by all states/ union territories, which runs into several hundreds.

(iv) The time and resources at our disposal did not allow us to undertake such a massive exercise. Nevertheless, there is a need study state laws, rules, regulations, orders, schemes etc.